

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

DAVID SIDOO, *et al.*,

Defendants.

Crim. No. 19-cr-10080-NMG-MPK

**JOINT INITIAL STATUS REPORT**

Pursuant to Local Rule 116.5(a), the parties hereby file the following status report prepared in connection with the Initial Status Conference that is currently scheduled for June 3, 2019. Defendants believe an in-person status conference on June 3 is necessary to address certain discovery-related issues, including the Government's policy regarding FBI reports. Defendants suggest that out-of-state counsel be allowed to attend that hearing telephonically if they so choose.

**(1) Automatic Discovery & Pending Discovery Requests**

The Government mailed automatic discovery in this case to Sidoo on or about April 25, 2019, the Colburn defendants on or about April 30, 2019, and the remaining defendants on or about May 17, 2019. This discovery was provided on a hard drive as well as an accompanying DVD. The Government provided Defendants with indexes where required and multiple databases in load-ready forms. Defendants are currently reviewing this discovery. The Defendants have requested that the Government provide more comprehensive indices as required by Local Rule 116.10 and the parties are conferring regarding this request.

**(2) Additional Discovery**

The Government anticipates providing significant additional discovery as it comes in and is processed by the Government. This includes a third production that will primarily – but not exclusively – consist of records that will be provided to all Defendants on or about May 30, 2019.

After this, the Government anticipates producing discovery on a rolling basis approximately once each month. The Government is reviewing discovery as it is produced to determine whether any such discovery, with respect to the charged defendants, is information that would tend directly to negate the defendant's guilt concerning any count in the indictment, and will produce said discovery. Defendants request that the Government be required to certify, by a date to be set by the Court, that it has reviewed all potential sources of material required to be produced under Fed. R. Crim. P. 16, Local Rule 116.2(b)(1) and *Brady vs. Maryland* and has provided Defendants with all such material. The Government objects to this request, noting that in complex case such as this, where new evidence is constantly being generated, such a "certification" is unworkable. Further, the government is aware of its obligations and will produce discovery – including *Brady* – as it is reviewed and processed by counsel.

**(3) Timing of Additional Discovery Requests**

In light of the large volume of discovery produced by the Government to date and additional materials that are forthcoming, the parties agree to hold in abeyance the deadlines associated with the discovery motion and bill of particulars provisions of Local Rule 116.3 until at least the next status conference, at which time the parties will endeavor to propose deadlines for discovery motions or request more time.

The parties agree that in the interim, any Defendant may confer and exchange letter requests with the Government for additional discovery pursuant to the non-deadline provisions of

Local Rule 116.3 (e.g., Local Rule 116.3(h) re consolidation of written requests and motions in multi-defendant cases). Defendants also request the ability to file requests for bills of particulars if they so choose before the schedule the parties will endeavor to set at the next status conference in October. The Government opposes this request.

**(4) Protective Orders**

There is a protective order currently in place. Should a party seek a protective order or modification of any existing protective order, a motion will be filed with the Court to address any issue.

**(5) Pretrial Motions**

The parties request that the Court set a schedule for defendants to file pretrial motions under Fed. R. Crim. P. 12(b) after Defendants have had an opportunity to review all discovery provided by the Government. The parties will endeavor to provide a proposed briefing schedule to the Court ahead of the next status conference.

With respect to the motion to dismiss filed by defendants Amy and Gregory Colburn (ECF # 341), all parties agree and request that resolution of the motion be stayed until the other defendants have had an opportunity to review the discovery materials from the Government in order to determine whether to join the motion filed by the Colburn defendants or to file their own separate or consolidated motions. The Government also requests that its response deadline be continued until after all Defendants have filed any additional motions to dismiss.

**(6) Expert Discovery**

The Government agrees to provide any expert witness disclosures 90 days prior to trial. The Defendants agree to provide any expert witness disclosures 30 days prior to trial.

Defendants also request that the Government agree to disclose, 6 months before trial, the names and general subject-matters of its experts. Further, defendants believe that the final expert disclosures should be similar in scope to those required in civil actions. The Government opposes this request, believing that there is no need to deviate from the standard time frames here with respect to expert discovery.

**(7) Speedy Trial Act**

The parties have conferred and ask that the Court exclude the period of time from the time of the initial status conference on June 3, 2019 to the time of the next status conference, under 18 U.S.C. § 3161(h)(7)(A), to permit the Defendants time to review discovery and confer with their respective counsel. The ends of justice served by this exclusion outweigh the interests of the public and the defendant in a speedy trial.

**(8) Interim Status Conference**

The parties request an interim status conference on or about October 2, 2019, or at a time thereafter that is convenient to the Court.

**(9) Pretrial Restriction on Contact with Witnesses**

The Court has imposed a condition of release prohibiting contact between the Defendants and potential witnesses (except in counsel's presence). Defendants believe that this restriction remains vague and impracticable because, to date, the Government has not identified the persons to whom it believes this restriction should apply. The parties agree that the Government will provide a list of potential witnesses to defense counsel by June 30, 2019, with the list being supplemented on a rolling basis thereafter if the Government identifies additional witnesses or co-conspirators. If any of the Defendants should challenge the inclusion of any particular

individual on the list, Defendants shall file a motion (under seal if appropriate) explaining why such contact is necessary.

Respectfully Submitted,

**ANDREW E. LELLING**  
**UNITED STATES ATTORNEY**

/s/ Eric S. Rosen

---

Eric S. Rosen  
Justin D. O'Connell  
Leslie A. Wright  
Assistant United States Attorneys  
John Joseph Moakley Courthouse  
One Courthouse Way, Suite 9200  
Boston, Massachusetts 02210  
Tel: (617)-748-3100  
[Eric.Rosen@usdoj.gov](mailto:Eric.Rosen@usdoj.gov)  
[Justin.O'Connell@usdoj.gov](mailto:Justin.O'Connell@usdoj.gov)  
[Leslie.Wright@usdoj.gov](mailto:Leslie.Wright@usdoj.gov)

**GAMAL ABDELAZIZ**

By his attorneys,

/s/ Brian T. Kelly

---

Brian T. Kelly (BBO # 549556)  
Joshua C. Sharp (BBO # 681439)  
Nixon Peabody LLP  
53 State Street  
Boston, MA 02109  
Tel: (617) 345-1000  
[bkelly@nixonpeabody.com](mailto:bkelly@nixonpeabody.com)  
[jsharp@nixonpeabody.com](mailto:jsharp@nixonpeabody.com)

**DIANE BLAKE AND TODD BLAKE**

By their attorneys,

/s/ David E. Meier

---

David E. Meier (BBO #341710)  
Todd & Weld LLP

One Federal Street, 27<sup>th</sup> Floor  
Boston, MA 02110  
Tel: (617) 624-4732  
[dmeier@toddweld.com](mailto:dmeier@toddweld.com)

Stephen H. Sutro, Esq.  
Duane Morris LLP  
One Market Plaza, Suite 2200  
San Francisco, CA 94105-1127  
Tel: (415) 957-3008  
[shsutro@duanemorris.com](mailto:shsutro@duanemorris.com)

**I-HSIN “JOEY” CHEN**

By his attorneys,

/s/ Reuben Camper Cahn  
Reuben Camper Cahn (*pro hac vice*)  
Jennifer L. Keller (*pro hac vice*)  
Chase A. Scolnick (*pro hac vice*)  
KELLER/ANDERLE LLP  
18300 Von Karman Avenue, Suite 930  
Irvine, CA 92612  
Tel: (949) 476-8700  
[rcahn@kelleranderle.com](mailto:rcahn@kelleranderle.com)

**AMY COLBURN AND GREGORY COLBURN**

By their attorneys,

/s/ David S. Schumacher  
David S. Schumacher (BBO # 647917)  
HOOPER, LUNDY & BOOKMAN, P.C.  
470 Atlantic Avenue, Suite 1201  
Boston, MA 02210  
(617) 532-2700  
[dschumacher@health-law.com](mailto:dschumacher@health-law.com)

Patric Hooper (*Pro Hac Vice*)  
HOOPER, LUNDY & BOOKMAN, P.C.  
1875 Century Park East, Suite 1600  
Los Angeles, California 90067-2517  
(310) 551-8111  
[phooper@health-law.com](mailto:phooper@health-law.com)

Jordan Kearney (*Pro Hac Vice*)

HOOPER, LUNDY & BOOKMAN, P.C.  
575 Market Street, Suite 2300  
San Francisco, CA 94105  
(415) 875-8500  
[jkearney@health-law.com](mailto:jkearney@health-law.com)

**MOSSIMO GIANNULLI**

By his attorneys,

/s/ Sean M Berkowitz  
Sean M. Berkowitz (*admitted pro hac vice*)  
LATHAM & WATKINS LLP  
330 North Wabash Avenue, Suite 2800  
Chicago, IL 60611  
Tel: (312) 777-7016  
[sean.berkowitz@lw.com](mailto:sean.berkowitz@lw.com)

William J. Trach (BBO #661401)  
LATHAM & WATKINS LLP  
200 Clarendon Street  
Boston, MA 02116  
Telephone: (617) 948-6000  
[william.trach@lw.com](mailto:william.trach@lw.com)

Perry J. Viscounty (*admitted pro hac vice*)  
LATHAM & WATKINS LLP  
650 Town Center Drive, 20th Floor  
Costa Mesa, CA 92626  
Tel: (714) 540-1235  
[perry.viscounty@lw.com](mailto:perry.viscounty@lw.com)

**ELIZABETH HENRIQUEZ**

By her attorneys,

/s/ Aaron M. Katz  
\_\_\_\_\_  
Aaron M. Katz (BBO # 662457)  
Ropes & Gray LLP  
Prudential Tower  
800 Boylston St.  
Boston, MA 02199-3600  
Tel: (617) 951-7117  
[aaron.katz@ropesgray.com](mailto:aaron.katz@ropesgray.com)

Laura G. Hoey (*pro hac vice*)

Ropes & Gray LLP  
191 North Wacker Drive, 32nd Floor  
Chicago, IL 60606  
Tel: (312) 845-1200  
[laura.hoey@ropesgray.com](mailto:laura.hoey@ropesgray.com)

Colleen A. Conry (*pro hac vice*)  
Ropes & Gray LLP  
2099 Pennsylvania Avenue, N.W.  
Washington, DC 20006-6807  
Tel: (202) 508-4600  
[colleen.conry@ropesgray.com](mailto:colleen.conry@ropesgray.com)

**DOUGLAS HODGE**

By his attorneys,

/s/ Joan McPhee

---

Brien T. O'Connor (BBO # 546767)  
Joan McPhee (BBO # 547869)  
Ropes & Gray - MA  
Prudential Tower  
800 Boylston Street  
Boston, MA 02199-3600  
617-951-7385  
[boconnor@ropesgray.com](mailto:boconnor@ropesgray.com)  
[jmcphee@ropesgray.com](mailto:jmcphee@ropesgray.com)

Miranda Hooker (BBO # 661569)  
Pepper Hamilton LLP  
125 High Street  
19th Floor, High Street Tower  
Boston, MA 02110  
617-204-5160  
[hookerm@pepperlaw.com](mailto:hookerm@pepperlaw.com)

**MANUEL HENRIQUEZ**

By his attorneys,

/s/ Walter Brown

---

Walter Brown (*pro hac vice*)  
Orrick, Herrington & Sutcliffe, LLP  
405 Howard Street  
San Francisco, CA 94105  
Tel: (415) 773-5700  
[wbrown@orrick.com](mailto:wbrown@orrick.com)



**MICHELLE JANAUS**

By her attorneys,

/s/ John L. Littrell

---

Thomas H. Bienert, Jr. (*pro hac vice*)

John Littrell (*pro hac vice*)

Bienert I. Katzman PC

903 Calle Amanecer, Suite 350

San Clemente, CA 92673

Tel: (949) 369-3700

[tbienert@bienertkatzman.com](mailto:tbienert@bienertkatzman.com)

[jlittrell@bienertkatzman.com](mailto:jlittrell@bienertkatzman.com)

Jonathan L. Kotlier (BBO # 545491)

Nutter, McClennen & Fish, LLP

155 Seaport Boulevard

Boston, MA 02210-2604

Tel: 617-439-2000

[jkotlier@nutter.com](mailto:jkotlier@nutter.com)

**ELISABETH KIMMEL**

By her attorneys,

/s/ Eóin P. Beirne

---

R. Robert Popeo (BBO # 403360)

Mark E. Robinson (BBO # 423080)

Eóin P. Beirne (BBO # 660885)

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY  
AND POPEO, P.C.

One Financial Center

Boston, MA 02111

(617) 348-1707 (telephone)

(617) 542-2241 (fax)

[rpopeo@mintz.com](mailto:rpopeo@mintz.com)

[mrobinson@mintz.com](mailto:mrobinson@mintz.com)

[ebeirne@mintz.com](mailto:ebeirne@mintz.com)

**LORI LOUGHLIN**

By her attorneys,

/s/ William J. Trach

William J. Trach (BBO #661401)

LATHAM & WATKINS LLP

200 Clarendon Street

Boston, MA 02116

Tel: (617) 948-6000  
[william.trach@lw.com](mailto:william.trach@lw.com)

Sean M. Berkowitz (*admitted pro hac vice*)  
LATHAM & WATKINS LLP  
330 North Wabash Avenue, Suite 2800  
Chicago, IL 60611  
Tel: (312) 777-7016  
[sean.berkowitz@lw.com](mailto:sean.berkowitz@lw.com)

Perry J. Viscounty (*admitted pro hac vice*)  
LATHAM & WATKINS LLP  
650 Town Center Drive, 20th Floor  
Costa Mesa, CA 92626  
Tel: (714) 540-1235  
[perry.viscounty@lw.com](mailto:perry.viscounty@lw.com)

**WILLIAM McGLASHAN, JR.**

By his attorneys,

/s/ Jack W. Pirozzolo

Jack W. Pirozzolo (BBO #564879)  
[jpirozzolo@sidley.com](mailto:jpirozzolo@sidley.com)  
SIDLEY AUSTIN LLP  
60 State Street, 36th Floor  
Boston, MA 02109  
Tel: (617) 223-0304

Joan M. Loughnane (*pro hac vice*)  
[jloughnane@sidley.com](mailto:jloughnane@sidley.com)  
SIDLEY AUSTIN LLP  
787 7th Avenue  
New York, NY 10019  
Tel: (212) 839-5567

/s/ John C. Hueston

John C. Hueston (*pro hac vice*)  
Marshall Camp (*pro hac vice*)  
HUESTON HENNIGAN LLP  
523 W. 6th Street, Suite 400  
Los Angeles, CA 90014  
Tel: (213) 788-4340  
[jhueston@hueston.com](mailto:jhueston@hueston.com)  
[mcamp@hueston.com](mailto:mcamp@hueston.com)

**MARCI PALATELLA**

By her attorneys,

/s/ Michael K. Loucks

Michael K. Loucks (BBO # 305520)  
Skadden, Arps, Slate, Meagher & Flom LLP  
500 Boylston Street  
Boston, MA 02116  
617-573-4840  
[michael.loucks@skadden.com](mailto:michael.loucks@skadden.com)

Jack P. DiCanio (*pro hac vice*)  
Allen J. Ruby (*pro hac vice*)  
Skadden, Arps, Slate, Meagher & Flom LLP  
525 University Avenue  
Palo Alto, CA 94301  
650-470-4500  
[allen.ruby@skadden.com](mailto:allen.ruby@skadden.com)  
[jack.dicanio@skadden.com](mailto:jack.dicanio@skadden.com)

**DAVID SIDOO**

By his attorneys,

/s/ Martin G. Weinberg

Martin G. Weinberg, Esq. (BBO # 519480)  
Martin G. Weinberg, PC  
20 Park Plaza  
Suite 1000  
Boston, MA 02116  
617-227-3700  
Fax: 617-338-9538  
[owlmcb@att.net](mailto:owlmcb@att.net)

/s/ David Z. Chesnoff (Pro Hac Vice)

David Z. Chesnoff, Esq.  
Chesnoff & Schonfeld  
520 S. 4th Street  
Las Vegas, NV 89101  
702-384-5563  
[dzchesnoff@cslawoffice.net](mailto:dzchesnoff@cslawoffice.net)

/s/ Richard A. Schonfeld (Pro Hac Vice)

Richard A. Schonfeld  
Chesnoff & Schonfeld  
520 South Fourth Street

Las Vegas, NV 89101  
702-384-5563  
[rschonfeld@cslawoffice.net](mailto:rschonfeld@cslawoffice.net)

**JOHN WILSON**

By his attorneys,

/s/ Michael Kendall

---

Michael Kendall (BBO #544866)  
Yakov Malkiel (BBO #689137)  
WHITE & CASE LLP  
75 State Street  
Boston, MA 02109-1814  
Tel: (617) 979-9310  
[michael.kendall@whitecase.com](mailto:michael.kendall@whitecase.com)

Andrew E. Tombak (*pro hac vice*)  
WHITE & CASE LLP  
1221 Avenue of the Americas  
New York, NY 10020  
Tel: (212) 819-8428  
[Andrew.tombak@whitecase.com](mailto:Andrew.tombak@whitecase.com)

**DR. HOMAYOUN ZADEH**

By his attorneys,

/s/ Tracy A. Miner

---

Tracy A. Miner (BBO # 547137)  
Megan A. Siddall (BBO # 568979)  
Seth B. Orkand (BBO # 669810)  
Miner Orkand Siddall LLP  
470 Atlantic Ave, 4th Floor  
Boston, MA 02110  
Tel.: (617) 273-83 77  
[tminer@mosllp.com](mailto:tminer@mosllp.com)  
[msiddall@mosllp.com](mailto:msiddall@mosllp.com)  
[sorkand@mosllp.com](mailto:sorkand@mosllp.com)

**ROBERT ZANGRILLO**

By his attorneys,

/s/ Nicholas Theodorou

---

Nicholas Theodorou (BBO # 495730)  
Foley Hoag LLP

155 Seaport Boulevard  
Boston, MA 02210  
Tel: (617) 832-1163  
[ntheodorou@foleyhoag.com](mailto:ntheodorou@foleyhoag.com)

Martin G. Weinberg, Esq. (BBO # 519480)  
20 Park Plaza, Suite 1000  
Boston, MA 02116  
Tel: (617) 227-3700  
[owlmgw@att.net](mailto:owlmgw@att.net)

Matthew L. Schwartz  
Boies Schiller Flexner  
55 Hudson Yards, 20th Floor  
New York, NY 10001  
Tel: (212) 303-3646  
[mlschwartz@bsfllp.com](mailto:mlschwartz@bsfllp.com)

**CERTIFICATE OF SERVICE**

I, Eóin P. Beirne, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on May 29, 2019.

/s/ Eóin P. Beirne